

## The complaint

Mr H complains that HSBC UK Bank Plc won't refund the money he lost when he was the victim of a scam.

## What happened

In September 2023, Mr H met a woman on a dating website. They started talking and their relationship developed to the point where they were talking most days and Mr H thought they were in a romantic relationship.

Sometime after they started talking, the woman mentioned she had made money investing in cryptocurrency and offered to teach Mr H to invest too. And as Mr H trusted the woman at this point, he agreed. The woman then helped him to open an account with an investment company she used and to purchase cryptocurrency to pay into the investment.

Mr H then made a number of payments from his HSBC account to an account he held with another bank, before using that money to purchase cryptocurrency from there. I've set out the payments Mr H made from his HSBC account below:

Date	Details	Amount
26 September 2023	To account with other bank	£5,000
4 October 2023	To account with other bank	£2,500
7 October 2023	To account with other bank	£10,300
13 October 2023	To account with other bank	£2,950

Unfortunately, we now know the woman and the investment company were scammers. The scam was uncovered after Mr H tried to withdraw some of the money he was told he had made, but was told he had to pay a number of fees before he could do so. Despite paying some fees, Mr H was told he had to pay further fees before he could withdraw and so realised he had been the victim of a scam.

HSBC investigated but said the payments were all made to an account in Mr H's own name and weren't flagged by its system. It was able to recover £30, but didn't agree to refund the rest of the money Mr H had lost. Mr H wasn't satisfied with HSBC's response, so referred a complaint to our service.

One of our investigators looked at the complaint. They didn't think the payments wouldn't have looked particularly unusual or suspicious. So they didn't think HSBC should have to refund the money Mr H had lost. Mr H disagreed with our investigator, so the complaint has been passed to me.

## What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Banks are expected to make payments in line with their customers' instructions. And Mr H accepts he made the payments here. So while I recognise he didn't intend for the money to ultimately go to scammers, he did authorise the payments. And so the starting position in law is that HSBC was obliged to follow his instructions and make the payments. So Mr H isn't automatically entitled to a refund.

The regulatory landscape, along with good industry practice, sets out requirements for banks to protect their customers from fraud and financial harm. So, in line with this, I think HSBC should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which account providers are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, before processing a payment, or in some cases declined to make a payment altogether, to help protect customers from the possibility of financial harm from fraud.

But it wasn't unusual for Mr H to make transfers out of this account for significant amounts. And he'd made a transfer out of the account for a larger amount than any of these payments in the weeks beforehand.

The payments Mr H made as a result of this scam also fluctuated up and down in size, and were spread out over a number of weeks. So they didn't form a particularly suspicious pattern, like one that might be expected where a customer is falling victim to a scam.

The payments were all also made to an account in Mr H's own name, and for which HSBC received a confirmation of payee match. And, when asked about the first payment, Mr H selected that it was for friends and family. So this will all have made the payments seem less suspicious to HSBC.

So I don't think it's unreasonable that HSBC didn't identify that Mr H could be at heightened risk of financial harm from fraud as a result of these payments, and didn't take any further steps or carry out any further checks before allowing them to go through.

For completeness, I've also considered whether any further checks would likely have prevented the loss Mr H suffered. But, even if HSBC had identified that Mr H was at heightened risk of financial harm from fraud when making some of these payments, I don't think any action I would have expected it to take would have prevented his loss.

When asked about the purpose of the first payment here, Mr H selected that it was for friends and family – despite it actually being made as part of an investment he thought he was making.

From what I've seen of his communication with the scammer, Mr H was being guided and coached through the payments he was making and his interactions with his banks by the scammer. The scammer told him to make a series of smaller payments, rather than one large payment, because otherwise his bank won't allow it and the payment would fail. He was also told not to tell his bank he was trading or that he was being guided on what to do,

and to say he was buying assets for long term investment instead. And, when payments were held for checks, the scammer encouraged him several times to just tell his bank to let him use his money as he wants and that they shouldn't stop him.

The scammer also tells Mr H not to tell his family or friends about the trading he is doing, as they might try to warn him against it. And Mr H doesn't question this and appears happy to do so.

And, from what I've seen of his communication with other banks he moved money from as part of this scam too, Mr H also gave misleading or incomplete information in response to questions he was asked by those banks.

So even if HSBC had asked more probing or in-depth questions about the payments Mr H was making here, I think Mr H would likely not have given it accurate or complete information about the purpose of the payments or the circumstances surrounding them – as happened with the questions he was asked by both HSBC and the other banks involved. And so I don't think HSBC would have had significant concerns following its questions and I don't think any warning I would have expected it to show following those questions would have stopped Mr H from making the payments or losing the money he did.

I appreciate that Mr H has been the victim of a cruel and sophisticated scam and that my decision will come as a disappointment to him. He has lost a significant amount of money and I sympathise with the position he has found himself in. But I can only look at HSBC's responsibilities and, for the reasons I've set out above, I don't think HSBC acted unreasonably or that anything I would reasonably have expected HSBC to have done would have prevented the loss he suffered.

And so I don't think it would be fair to require HSBC to refund the money Mr H has lost.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 21 November 2024.

Alan Millward  
**Ombudsman**